



Bill Draft 2009-RBz-52: Reinstate Cigarette Tax Stamps.

2009-2010 General Assembly

Committee:	Revenue Laws Study Committee	Date:	May 4, 2010
Introduced by:		Prepared by:	Heather Fennell
Analysis of:	2009-RBz-52		Committee Counsel

SUMMARY: *Bill Draft 2009-RBz-52 would require a tax stamp be attached to packages of cigarettes sold in North Carolina as evidence of payment of the tax on cigarettes and would create a criminal penalty for counterfeiting stamps or stamp impression devices.*

CURRENT LAW: North Carolina first began taxing cigarettes in 1969. Tax stamps were required to be attached to packages of cigarettes as evidence of payment of the tax. In 1993, the tax stamp requirement was repealed and the payment of the cigarette tax was recorded by reports submitted by cigarette distributors.

Currently, every state but North Carolina, North Dakota, and South Carolina requires cigarette tax stamps.¹ At the time North Carolina repealed its tax stamp requirement in 1993; four other states did not require tax stamps. Of those four states, three of those states have begun to require cigarette tax stamps: Alaska, Hawaii, and Michigan.

At the time of the original enactment, a discount of 7/24¢ per stamp was given for the expenses associated with the stamps. This discount amount equated to approximately 5¢ per carton. When the tax stamp was eliminated, the General Assembly changed the discount amount to 4% of the tax due and provided that the purpose of the discount is to cover a distributor's expenses associated with preparing the required tax reports. The General Assembly repealed the discount in 2003; then reinstated it in 2004 at its current rate of 2% of the tax due. With the recent increases in the cigarette tax rate, the 2% discount equates to approximately 18¢ per carton.

BILL ANALYSIS: Bill Draft 2009-RBz-52 would reinstate cigarette tax stamps by requiring that a package of cigarettes for sale or use in this State must be marked by a tax-paid stamp. A person who forges a stamp or who knowingly places a forged stamp on a package of cigarettes is guilty of a Class H felony.

The draft requires the Department of Revenue to arrange for the manufacture and sale of the stamps. Each stamp has a unique serial number. The Department may sell stamps directly to licensed distributors, or it may allow the manufacturer of the stamps to sell stamps directly to distributors. Full payment of the tax by the distributor is required before the distributor may receive the stamps. A distributor must affix the stamp to the package of cigarettes within 48 hours of its receipt, excluding Saturdays, Sundays, and State holidays. The stamps must be affixed to the package of cigarettes in a manner that ensures the stamp cannot be removed without being mutilated or destroyed.

¹ South Carolina repealed its tax stamp requirement in 1997.

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The draft amends the monthly report distributors must file with the Department to require the following additional information:

- The quantity of cigarettes on hand on the first and last days of the preceding calendar month.
- The amount of stamps purchased, used, and on hand during the reporting period.
- Any other information the Department requires.

The draft retains the current 2% discount, and specifies that the discount covers the distributor's expenses in placing the stamps on the packages of cigarettes and maintaining the records required by the Department. Lastly, the draft provides that the Department must offer refunds of unused or mutilated stamps. Refunds are also available for cigarettes sold out of State, or sold to an entity that is not subject to tax.

EFFECTIVE DATE: This bill would be effective January 1, 2011.

2009-RBz-52-SMTD-152 v1